

### Remarks

This Communication is in response to the Final Office Action dated **October 22, 2010**. Claims 19, 21-24, 26-35, and 38-42 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement. (Office Action, pg. 2.) Claims 26, 27, 31-35, and 38-42 are rejected under 35 U.S.C. 102(e) as being anticipated by Timmermans (US 5183085). (Office Action, pg. 2.) Claims 19, 21, 23, 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timmermans in view of Lau et al. (US 6165210, hereinafter Lau). (Office Action, pg. 5.)

In this Communication, the rejections to the claims are traversed. Reconsideration in view of the following remarks is respectfully requested.

### Claim Rejections-35 USC 112

Claims 19, 21-24, 36-35, and 38-42 are rejected under 35 USC 112, first paragraph, as allegedly failing to comply with the written description requirement. The Office Action asserts that "Applicants' disclosure does not describe the stent's windings being in direct contact with each other when the stent is in its unexpanded configuration." Applicants disagree and the rejection is *traversed*.

"Applicants may show possession of an invention by disclosure of drawings that are sufficiently detailed to show that applicants were in possession of the claimed invention as a whole." MPEP 2163; see, e.g., *Vas-Cath*, 935 F.2d at 1565, 19 USPQ2d at 1118 ("drawings alone may provide a 'written description' of an invention as required by Sec. 112"); *In re Wolfensperger*, 302 F.2d 950, 133 USPQ 537 (CCPA 1962) (the drawings of applicant's specification provided sufficient written descriptive support for the claim limitation at issue); *Autogiro Co. of America v.*

*United States*, 384 F.2d 391, 398, 155 USPQ 697, 703 (Ct. Cl. 1967) ("In those instances where a visual representation can flesh out words, drawings may be used in the same manner and with the same limitations as the specification.").

Independent claim 19 requires that at least a portion of the longitudinally adjacent first and second windings to be in direct contact with each other when the stent is in the unexpanded configuration. Similarly, independent claims 26, 34, and 38 all require that "at least portions of at least two longitudinally successive waves being in direct contact with one another when the stent is in the unexpanded configuration."

Fig. 2 is "a perspective view of the stent of the present invention." (See Brief Description of the Drawings.) Fig. 5 of the application is "a schematic showing of nested longitudinally adjacent waves of the stent of FIG.2." *Id.* Fig. 5, which is copied below, clearly shows that at least portions of longitudinally successive windings 24 are in direct contact with each other. Furthermore, the specification states that "[a]s seen with respect to FIG. 5, ...[i]n optimum configuration, the spacing or pitch 26 between each longitudinally successive winding 24 is constructed to be minimal." (Para. [0027].) Therefore, combining the specification and the drawings, one of ordinary skill in the art would have understood that Fig. 5 at least shows that portions of the longitudinally successive windings 24 are in direct contact with each other for the purpose of achieving minimal spacing 26.

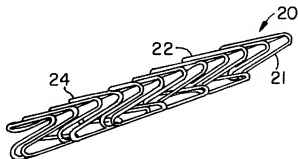


Fig. 2

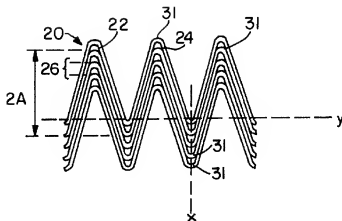


Fig. 5

In light of the foregoing, Applicants request withdrawal of the § 112, first paragraph, rejections of independent claims 19, 26, 34, and 38.

Claims 21-24, 27-33, 35, and 39-42 depend, either directly or indirectly, from independent claims 19, 26, 34 or 38, respectively. These claims are therefore patentable for at least the reasons cited with respect to the independent claims. Consequently, Applicants respectfully request withdrawal of the § 112, first paragraph rejections.

#### **Claim Rejections-35 USC 102**

Claims 26, 27, 31-35, and 38-42 are rejected under 35 USC 102 as being anticipated by Timmermans. The Office Action alleges that Timmermans discloses “at least portions of at least two longitudinally successive waves being in direct contact with one another when the stent is in the unexpanded configuration (col. 3, lines 32-47).” (Office Action, pg. 3.) The Office Action acknowledges that Timmermans “does not explicitly state that the windings of the stent will contact each other when in its unexpanded configuration.” (Office Action, pg. 7.) But the Office Action further alleges that “the stent is made of nitinol which allows for flexibility, and is capable of being compressed into various configurations which may include the windings being in contact with each other without overlapping (col. 3, lines 32-47).” (Office Action, pg.7.)

Applicants disagree with the allegations.

Independent claims 26, 34 and 38 require that “at least portions of at least two longitudinally adjacent spaced waves being in direct contact with one another...” (Emphasis added.)

Timmermans is directed to a method and apparatus of compressing a coiled stent in preparation for insertion into the body. (Timmermans, col. 2, lines 21-23.) The specification of Timmermans describes an apparatus including combs that engage the coils of the stent. (Timmermans, col. 2, lines 21-23.) Timmermans further states “[s]ince folding occurred while the coils in the stent were separated by the pins in the combs, the coils remained separated from one another,...” (Emphasis added. Timmermans, col. 3, lines 35-37.) Therefore, Timmermans teaches a compressed stent having separated coils. (Emphasis added.) Consequently, Timmermans does not disclose an unexpanded stent having portions of longitudinally adjacent waves to be in direct contact with one another as claims 26, 34 and 38 require. As such, Applicants respectfully request withdrawal of the rejections.

Claims 27, 31-33, 35, and 39-42 are dependent over claims 26, 34 and 38 directly or indirectly, and therefore are patentable at least for the reasons cited above. Applicants respectfully request withdrawal of the rejections.

### **35 USC 103**

Claims 19, 21, 23, 24 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Timmermans in view of Lau.

Claim 19 is an independent claim. Claims 21, 23, 24 depend from claim 19 either directly or indirectly. Claim 30 depends from independent claim 26. As discussed above, both

claims 19 and 26 require a stent having portions of longitudinally adjacent waves to be in direct contact with one another in the unexpanded state.

Lau is directed to a foldable stent. (Lau, Abstract.) However, Lau at least fails to teach or suggest a stent having portions of longitudinally adjacent waves to be in direct contact with one another in the unexpanded state. Therefore, Lau does not cure the deficiencies of Timmermans. Even if one of ordinary skill in the art were to modify the stent of Timmermans with the teachings of Lau, as the Office Action suggests, the resulting combination would still fail to teach, suggest, or otherwise render obvious all the limitations recited in independent claims 19 and 26. Dependent claims 21, 23, 24 and 30 are patentable at least for the reasons cited for the independent claims. Applicants respectfully request withdrawal of the rejections.

**Conclusion**

Based on at least the foregoing remarks, Applicants respectfully submit this application is in condition for allowance. Favorable consideration and prompt allowance of claims 19, 21-24, 26-35, and 38-42 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in better condition for allowance; the Examiner is invited to contact Applicants' undersigned representative at the telephone number listed below.

Respectfully submitted,

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